

Reentry Program Facility Siting Agreement

This Reentry Program Facility Siting Agreement (“**Siting Agreement**” or “**Agreement**”) entered into by and between the California Department of Corrections and Rehabilitation (“**CDCR**” or the “**Department**”) and County of _____ (“**County**”) is effective this ___ day of _____, 2008. The Department and the County are each referred to as a “**Party**” and are collectively referred to as the “**Parties**.”

Recitals

WHEREAS, the Legislature has found and declared that: (a) the continuity of services provided both before and after an inmate’s release on parole will improve the parolee’s opportunity for successful reintegration into society (Penal Code § 6270(a)); and (b) placing an inmate in a secure correctional facility within the community prior to parole into that community provides the opportunity for both parole officers and local law enforcement personnel to better coordinate supervision of that parolee (Penal Code § 6270(b));

WHEREAS, Penal Code section 6271 authorizes CDCR to construct, establish and operate Reentry Facilities in a city, county, or city and county that requests a reentry facility (“**Reentry Facility**”), and provides that the proposed location of the reentry facility (“**Proposed Reentry Location**”) shall be identified by the city, county, or city and county;

WHEREAS, Penal Code section 6273 provides that in the locations where a Reentry Facility is established, CDCR shall develop a collaborative partnership with local government, local law enforcement, and community service providers;

WHEREAS, Government Code section 15820.901 authorizes CDCR, the County and the State Public Works Board (“**SPWB**”) to acquire, design, and construct local jail facilities approved by the Corrections Standards Authority (“**CSA**”) pursuant to Government Code section 15820.906;

WHEREAS, Government Code section 15820.907(b) provides that CDCR and CSA shall give a maximum of 300 jail funding preference points (“**Reentry Preference**”) to counties that assist the state in siting a Reentry Facility as described in Penal Code sections 6270, 6271.1(a), 15 C.C.R. section 1706, and CDCR’s Secure Community Reentry Facilities Planning Guide;

WHEREAS, Government Code section 15820.907(b) also provides that the CSA shall, to the extent possible, ensure that funds for the construction of new jail beds be coordinated with CDCR’s efforts to site new reentry facilities;

WHEREAS, on [date], the County and CDCR entered into an *Agreement to Cooperate with the California Department of Corrections and Rehabilitation* (“**Agreement to Cooperate**”);

WHEREAS, on [date] and pursuant to page 20 of the CSA’s December 20, 2007 Request for Proposals (“**RFP**”) for construction or expansion of county jails pursuant to the Public Safety

and Offender Rehabilitation Act of 2007, as amended (the “**Act**”), as well as 15 C.C.R. sections 1706 and 1712(a)(4), County’s Board of Supervisors adopted Resolution [____], which Resolution identified at least one Proposed Reentry Location [identify location], stipulates that a Reentry Planning Team is planned or exists, and provides copies of local meeting/planning documents related to the Proposed Reentry Location;

WHEREAS, on May 8, 2008, the CSA Board adopted a motion stating, in relevant part that: (1) the CSA Board only approve final funding for proposals that include a secure Reentry Facility; and (2) if a Siting Agreement locates the Reentry Facility within a city’s limits, the County must include resolutions approving that site from both the County Board of Supervisors and the city’s council before the site is approved for final funding during phase one.

WHEREAS, 15 C.C.R. section 1747.5(b) states that the Siting Agreement shall include: (a) a description of the Proposed Reentry Location including the proximity of water, sewer and power supply (see paragraph 4.a(2)(b) below); (b) language that states that the Proposed Reentry Location is agreeable to CDCR (see paragraph 4.a(2) below); (c) the roles, responsibilities and performance expectations of the Parties to establish a Reentry Facility (see paragraphs 4 - 6 below); (d) a description of the needs of the individual county with respect to the parolee population, as well as the services and programs that will be available and/or necessary for a successful Reentry Facility (see paragraph 4.a(1) below); and (e) a description of the location and design of the Reentry Facility, staffing and operations (where applicable) (see paragraph 4.a(2)(a) below) and additional terms as the Parties deem necessary;

WHEREAS, CDCR and the County intend the Siting Agreement to be followed immediately by an agreement through which CDCR will acquire sufficient title to a Proposed Reentry Location from the County;

WHEREAS, nothing in this Agreement is intended to modify rights and obligations established pursuant to the Property Acquisition Law (Govt. Code §§ 15850 et seq.). Exhibit A to this Agreement provides a graphic describing the process set forth in this Agreement and the process by which an eligible county will receive funding to construct local jail facilities. Exhibit A (“CSA – CDCR Reentry Siting Agreement Process/SPWB – CDCR Jail Lease Revenue Bond Program Agreements”).

Agreements

1. *Term of Agreement*

- a. *Term.* This Agreement shall commence on the effective date written above and shall continue in force until the date upon which the limitations period for any legal challenges to the expenditure of funds pursuant to the lease-revenue bonds described in Government Code section 15820.903(b), which the Parties agree is no earlier than [date].
- b. *Termination of Agreement.*
 - (1) *By CDCR.* CDCR may terminate this Agreement at any time, with or without cause, upon one year's written notice to County.
 - (2) *By County.* The County may only terminate this Agreement if the County does not receive a conditional award of state bond funds for construction of a jail facility ("**Conditional Award**") and has exhausted, or has waived, all administrative appeal procedures set forth at 15 C.C.R. section 1776 et seq.

2. *Buildable Site*

- a. For purposes of this Agreement, a "Buildable Site" is one that CDCR determines, in its sole and reasonable discretion, is suitable for the construction and operation of a Reentry Facility satisfying the criteria set forth in CDCR's November 29, 2007 Final Conceptual Program Plan for Secure Reentry Correctional Facility: Prototype Facility Design Concepts ("**2007 Final Conceptual Program Plan**"). Constraints that may render the construction and operation of a Reentry Facility unsuitable include, but are by no means limited to, evidence of geologic and topographic hazards or limitations, excessive cost of infrastructure, or limitations on the availability of utilities, access, and emergency services. Other constraints that may render the construction and operation of a Reentry Facility unsuitable include, but are by no means limited to, evidence that:
 - (1) Discretionary approvals or authorizations must be obtained in order to authorize construction or operation of a Reentry Facility;
 - (2) Local laws, environmental issues, or community opposition exist that may materially interfere with construction or operation of a Reentry Facility at the Proposed Reentry Location(s); or
 - (3) The County cannot convey sufficient title to CDCR due to, for example, a severed mineral estate.
- b. Construction and operation of a Reentry Facility will only occur after completion of any legally required compliance with the California Environmental Quality Act ("Pub. Res. Code §§21000 et seq.") ("CEQA"). Accordingly, in exercising its

discretion, CDCR may determine that the need for CEQA review renders a Proposed Reentry Location unsuitable and, as a result, CDCR may determine that a Proposed Reentry Location is not a “Buildable Site.”

- c. In exercising its discretion, CDCR shall favor Proposed Reentry Locations that require no additional discretionary approvals from any local, regional, state, or federal agency other than CDCR, CSA, SPWB, or the Pooled Money Investment Board. CDCR shall also favor locations in which a Reentry Facility may be constructed and put into operation cost-effectively and rapidly.
- d. Given the urgent need for the Reentry Facilities, and the terms of Penal Code section 7021, which establishes the siting of 2,000 Reentry Facility beds as a precondition to the authorization of construction pursuant to Government Code section 15819.41 and Penal Code section 6271.1, CDCR will only consider a Proposed Reentry Location to be a Buildable Site if CDCR anticipates that it could issue a Notice to Proceed with the Reentry Facility’s construction within one year of CDCR’s determination that the location is a Buildable Site.
- e. In exercising its discretion, CDCR shall also favor Proposed Reentry Locations for which the County has identified available community resources that may feasibly and cost-effectively provide some or all of the programming necessary to meet the performance expectations set forth in pages 2-1 through 2-2 of the 2007 Final Conceptual Program Plan.

3. *Coordination for CEQA*

CDCR shall have primary responsibility for the construction and operation of the Reentry Facilities, which construction and operation shall only occur after the completion of any legally required CEQA compliance. However, CDCR and the County recognize that the urgent need for these facilities requires close coordination between the County and CDCR, and that it may be necessary to coordinate CDCR’s CEQA compliance for a Reentry Facility with the CEQA review for other projects for which the County is the CEQA lead agency. To that end: (a) CDCR will endeavor to make available to the County any significance thresholds or standard avoidance and mitigation measures that CDCR foresees utilizing in any CEQA review required for the Reentry Facilities; and (b) the County shall provide CDCR a reasonable opportunity to review and comment upon an administrative draft of the CEQA compliance document(s) that the County proposes to rely upon prior to approving or carrying out the jail facilities that are the subject of the Conditional Award, and County shall give due consideration to incorporating any comments submitted by CDCR. The County’s obligation to provide CDCR a reasonable opportunity to review and comment does not apply where the County relies upon a CEQA document that was adopted or certified by the County prior to entry into this Siting Agreement.

4. *Primary Due Diligence Materials and Opportunity-to-Cure*

a. Exhibit B to this Agreement includes:

- (1) A description of the needs of the County with respect to the parolee population, as well as the services and programs that will be available and/or necessary for a successful Reentry Facility.
- (2) A description of up to three Proposed Reentry Locations that are agreeable to CDCR for consideration. If the County proposes more than one site, the County shall rate those sites to reflect the County's information regarding the relative degree to which the sites constitute "Buildable Sites." For each of these locations:
 - (a) A description of the Reentry Facility design as recommended in chapters 4 and 6 of the 2007 Final Conceptual Plan, and staffing and operations (where applicable).
 - (b) For each Proposed Reentry Location, a completed Site Comparison Chart (Exhibit C to this Agreement) along with:
 - (i) The proximity of water, sewer and power supply;
 - (ii) An identification of any known physical, legal, or political constraints that might affect construction and operation of a Reentry Facility that meets the performance expectations set forth in pages 2-1 through 2-2 of the 2007 Final Conceptual Program Plan. The identification should address, but is not limited to:
 - 1) Any basis of which the County is aware for streamlined CEQA review, including but not limited to exemptions for in-fill development within urban areas;
 - 2) Any closely related past, present, and reasonably foreseeable probably future projects that may increase or compound the environmental impacts resulting from developing a Reentry Facility at the Proposed Reentry Location; and
 - 3) Any activity that would constitute part of the same "project" as development of a Reentry Facility at the Proposed Reentry Location, pursuant to CEQA's definition of "project."
- (3) The County shall provide a statement whereby the County Executive or Chief Administrative Officer represents, warrants and certifies, under

penalty of perjury, that the County has undertaken a reasonable investigation of each of the Proposed Reentry Location(s) presented to CDCR and that, to the best of the County's knowledge and belief, each of the Proposed Reentry Location(s) presented would adequately meet the needs of CDCR in planning, constructing and operating a Reentry Facility that meets the performance expectations set forth in the 2007 Final Conceptual Program Plan.

- (4) CDCR is authorized to establish, construct and operate reentry facilities as further defined in Penal Code section 6271. The County shall provide a commitment that, to the extent permitted by law, the County will support, facilitate, assist and fully cooperate with planning, constructing, and operating of a Reentry Facility at one of the Proposed Reentry Locations. This commitment shall include, but is not limited to, the County's best efforts to cause sufficient title to be transferred to CDCR on commercially reasonable terms mutually satisfactory to both the County and CDCR. Specifically, the County will agree to:
 - (a) Sell and convey sufficient title to a selected Proposed Reentry Location to CDCR by means of a form of agreement attached hereto as Exhibit D, upon payment by CDCR of the appraised fair market value of the Proposed Reentry Location, as determined by an appraiser acceptable to both the County and CDCR;
 - (b) Provide CDCR with a recordable legal description of the selected Proposed Reentry Location, recognizing that the County may need to have such a legal description prepared (at its own cost) if the selected Proposed Reentry Location is a portion of a larger parcel; and
 - (c) Take such other actions as may be reasonably necessary to accomplish the purpose of constructing a reentry facility on a selected Proposed Reentry Location.
- (5) If one or more of the Proposed Reentry Location(s) are located within the limits of a city, its City Council, as well as the County's Board of Supervisors, shall each provide resolutions in which each governing board approves identification of the site as a "Proposed Reentry Location," for the purposes and subject to all the terms set forth in this Agreement. The resolution shall also include a commitment by the city to support, facilitate, assist and fully cooperate with CDCR and the County in connection with the proposed Reentry Facility.

- b. CDCR shall promptly review the documents provided by the County pursuant to this paragraph 4. Upon the completion of such review, CDCR may determine, in its reasonable discretion, that: (i) the Proposed Reentry Location(s) identified by the County is not a Buildable Site(s), as defined in paragraph 2; or (ii) CDCR requires additional information in order to complete primary due diligence for the Proposed Reentry Location(s).
- c. In the event that CDCR determines that it requires additional primary due diligence information for a Proposed Reentry Location(s), CDCR shall issue notice to the County specifying the information required and specifying a reasonable time period and date by which the County shall respond. If the County does not provide the requested information by the date specified by CDCR, or after CDCR's review of the requested information, CDCR may determine in its sole and reasonable discretion, that the Proposed Reentry Location(s) identified by the County is not a Buildable Site, as defined in paragraph 2.

5. *CDCR Secondary Due Diligence and Opportunity-to-Cure*

- a. Unless CDCR notifies the County in writing that CDCR declines to conduct Secondary Due Diligence, CDCR shall complete its secondary due diligence for the Proposed Reentry Location(s) within fifteen (15) months of entry into this Siting Agreement ("Secondary Due Diligence Period"). This secondary due diligence shall include:
 - (1) Review of any of the materials identified on the Due Diligence Materials Checklist (Exhibit E to this Agreement);
 - (2) Consideration of the scope and status of any CEQA compliance required for CDCR's construction and operation of a Reentry Facility at the Proposed Reentry Location, including the likely outcome of any legal challenges to that compliance.
- b. CDCR's secondary due diligence will include a written determination as to whether CDCR deems, in its sole and reasonable discretion, the Proposed Reentry Location(s) to be a Buildable Site, as defined in paragraph 2.
- c. If at any time during the course of its secondary due diligence, CDCR determines in its sole and reasonable discretion that the Proposed Reentry Location(s) submitted by the County may not be a Buildable Site, or that CDCR does not have sufficient information to determine that the Proposed Reentry Location(s) is a Buildable Site:
 - (1) CDCR shall provide CSA and the County a written explanation of CDCR's determination in sufficient detail so as to provide the County a reasonable opportunity-to-cure;
 - (2) CSA shall provide the County a reasonable time period to provide CSA additional information regarding the site previously considered by CDCR,

or regarding an alternative site, and CSA shall forward that information to CDCR for review. In no case shall a “reasonable time period” be less than 30 days or more than 45 days from the day on which the County receives the written explanation from CSA;

- (3) To allow the County a reasonable opportunity-to-cure, CSA, the County, and CDCR, may mutually agree to one three (3) month extension (“**Extension**”) of the twelve month Secondary Due Diligence Period. An agreement to the Extension must be in writing, signed by authorized representatives of CSA, the County, and CDCR.

6. *Milestones and Penalties.* At any time prior to the completion of the secondary due diligence and subject to the this Agreement’s provisions for opportunity-to-cure, CDCR, exercising its reasonable judgment to implement the Act, may determine that none of the Proposed Reentry Location(s) satisfy the criteria set forth in paragraph 2 for a Buildable Site. In that circumstance:

- a. CDCR shall not proceed with further primary or secondary due diligence for the Proposed Reentry Location(s);
- b. CSA shall review the County’s local jail proposal(s) that received a Conditional Award;
- c. CSA shall make findings that approval of final funding for the County’s local jail proposal is not consistent with Govt. Code section 15820.907(b)’s requirement “[t]he CSA shall, to the extent possible, ensure that funds for the construction of new jail beds be coordinated with CDCR’s efforts to site new reentry facilities”; and
- d. CDCR may not submit to the Joint Legislative Budget Committee any of the documents set forth in Penal Code section 7003 for the County’s local jail proposal(s).

7. *Appeal.* Nothing in this Agreement is intended to limit the applicability of the appeal procedures set forth at 15 C.C.R. sections 1776 et seq. to any decision by CSA to rescind the Reentry Preference.

8. *Indemnification.* Each Party shall defend and indemnify the other Party, its directors, officers, employees, agents and authorized volunteers from and against all claims, demands or liability for damages arising out of the Party’s performance of the terms of this Agreement where such liability is caused or claimed or alleged to be caused by the willful misconduct, sole negligence or active negligence of the Party or any person or organization for whom or which the Party is legally liable.

9. *Insurance.* The County shall cause any contractor(s) as well as any subcontractors upon which the County relies to implement this Agreement to carry adequate insurance in a form agreed to by CDCR.

10. *Administration of Agreement*

- a. *Workers' Compensation.* Each Party certifies that it is aware of the provisions of section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code and each Party agrees that it will comply with such provisions before commencing the performance of any work under this Agreement. Each Party and any contractors or subcontractors will keep workers' compensation insurance for their employees in effect during all work covered by this Agreement. Upon request, each Party will provide the other with the certificate required by Labor Code section 3700.
- b. *Books and Records.* Each Party shall have access to and the right to examine the other Party's pertinent books, documents, papers or other records (including, without limitation, records contained on electronic media) relating to the performance of that Party's obligations pursuant to this Agreement. The Parties shall each retain all such books, documents, papers or other records to facilitate such review. Access to each Party's books and records shall be during normal business hours only. Nothing in this paragraph shall be construed to operate as a waiver of any applicable privileges. Reasonable notice will be provided by the Party inspecting the records.
- c. *Disputes.* The Parties recognize that there may be disputes regarding the obligations of the Parties or the interpretation of this Agreement. The Parties agree that they may attempt to resolve disputes as follows:
 - (1) *Statement Describing Alleged Violation of Agreement.* A Party or Parties alleging a violation of this Agreement (the "**Initiating Party(ies)**") shall provide a written statement describing all facts that it believes constitute a violation of this Agreement to the Party(ies) alleged to have violated the terms of this Agreement (the "**Responding Party(ies)**").
 - (2) *Response to Statement of Alleged Violation.* The Responding Party(ies) shall have sixty days from the date of the written statement to prepare a written response to the allegation of a violation of this Agreement and serve that response on the Initiating Party(ies) or to cure the alleged violation to the reasonable satisfaction of the Initiating Party(ies). The Initiating Party(ies) and the Responding Party(ies) shall then meet within thirty days of the date of the response to attempt to resolve the dispute amicably.
 - (3) *Mediation of Dispute.* If the Initiating Party(ies) and the Responding Party(ies) cannot resolve the dispute within ninety days of the date of the written response, they shall engage a mediator to attempt to resolve the dispute. CDCR shall ensure that it is represented at the mediation by an individual with at least the rank of Deputy Director. The County shall ensure that it is represented at the mediation by its County Administrative

Officer or by a member of the Board of Supervisors, or authorized representative. These representatives of the Initiating Party(ies) and the Responding Party(ies) may consult with staff, counsel and/or technical consultants during the mediation and such staff and/or technical consultants may be present during the mediation. The costs of the mediator shall be divided evenly between the Initiating Party(ies) and the Responding Party(ies).

- (4) *Reservation of Rights.* Nothing in this paragraph 9(c) shall require a Party to comply with the dispute resolution process contained herein and each Party retains and may exercise at any time all legal and equitable rights and remedies it may have to enforce the terms of this Agreement; provided, that prior to commencing litigation, a Party shall provide at least five calendar days' written notice of its intent to sue to all Parties.

11. *General Provisions.*

- a. *Authority.* Each signatory of this Agreement represents that s/he is authorized to execute this Agreement on behalf of the Party for which s/he signs. Each Party represents that it has legal authority to enter into this Agreement and to perform all obligations under this Agreement.
- b. *Amendment.* This Agreement may be amended or modified only by a written instrument executed by each of the Parties to this Agreement.
- c. *Jurisdiction and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the State of California, except for its conflicts of law rules. Any suit, action, or proceeding brought under the scope of this Agreement shall be brought and maintained to the extent allowed by law in the County of Sacramento, California.
- d. *Headings.* The paragraph headings used in this Agreement are intended for convenience only and shall not be used in interpreting this Agreement or in determining any of the rights or obligations of the Parties to this Agreement.
- e. *Construction and Interpretation.* This Agreement has been arrived at through negotiations and each Party has had a full and fair opportunity to revise the terms of this Agreement. As a result, the normal rule of construction that any ambiguities are to be resolved against the drafting Party shall not apply in the construction or interpretation of this Agreement.
- f. *Entire Agreement.* This Agreement constitutes the entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes any prior oral or written agreement, understanding, or representation relating to the subject matter of this Agreement.
- g. *Partial Invalidity.* If, after the date of execution of this Agreement, any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or

future laws effective during the term of this Agreement, such provision shall be fully severable. However, in lieu thereof, there shall be added a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

- h. *Successors and Assigns.* This Agreement shall be binding on and inure to the benefit of the successors and assigns of the respective Parties to this Agreement. No Party may assign its interests in or obligations under this Agreement without the written consent of the other Parties, which consent shall not be unreasonably withheld or delayed.
- i. *Waivers.* Waiver of any breach or default hereunder shall not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this Agreement and forbearance to enforce one or more of the remedies provided in this Agreement shall not be deemed to be a waiver of that remedy.
- j. *Attorneys' Fees and Costs.* The prevailing Party in any litigation or other action to enforce or interpret this Agreement shall be entitled to reasonable attorneys' fees, expert witnesses' fees, costs of suit, and other and necessary disbursements in addition to any other relief deemed appropriate by a court of competent jurisdiction.
- k. *Necessary Actions.* Each Party agrees to execute and deliver additional documents and instruments and to take any additional actions as may be reasonably required to carry out the purposes of this Agreement.
- l. *Representations and Warranties.* Each representation and warranty contained herein or made pursuant hereto shall be deemed to be material and to have been relied upon and shall survive the execution, delivery and termination of this Agreement.
- m. *Compliance with Law.* In performing their respective obligations under this Agreement, the Parties shall comply with and conform to all applicable laws, rules, regulations and ordinances.
- n. *Third Party Beneficiaries.* This Agreement shall not create any right or interest in any non-Party or in any member of the public as a third party beneficiary. In particular, nothing in this Agreement is to be construed to create any rights, liberty interests or entitlements in favor of any offender. For purposes of this Agreement, the term "offender" includes any adult male or female person incarcerated, or in violation of parole, under applicable California laws. This Agreement is intended and shall be construed only to set forth the rights and obligations of the Parties; offenders shall have only those entitlements created by the federal and State Constitutions, statutes, regulations or caselaw.

- o. *Counterparts.* This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.
- p. *Notices.* All notices, requests, demands or other communications required or permitted under this Agreement shall be in writing unless provided otherwise in this Agreement and shall be deemed to have been duly given and received on: (i) the date of service if served personally or served by facsimile transmission on the Party to whom notice is to be given at the address(es) provided below, (ii) on the first day after mailing, if mailed by Federal Express, U.S. Express Mail, or other similar overnight courier service, postage prepaid, and addressed as provided below, or (iii) on the third day after mailing if mailed to the Party to whom notice is to be given by first class mail, registered or certified, postage prepaid, addressed as follows:

IN WITNESS THEREOF, the parties hereto have executed this Agreement as specified below.

COUNTY/CITY OF _____

By:

Name:

Title:

Date:

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

By:

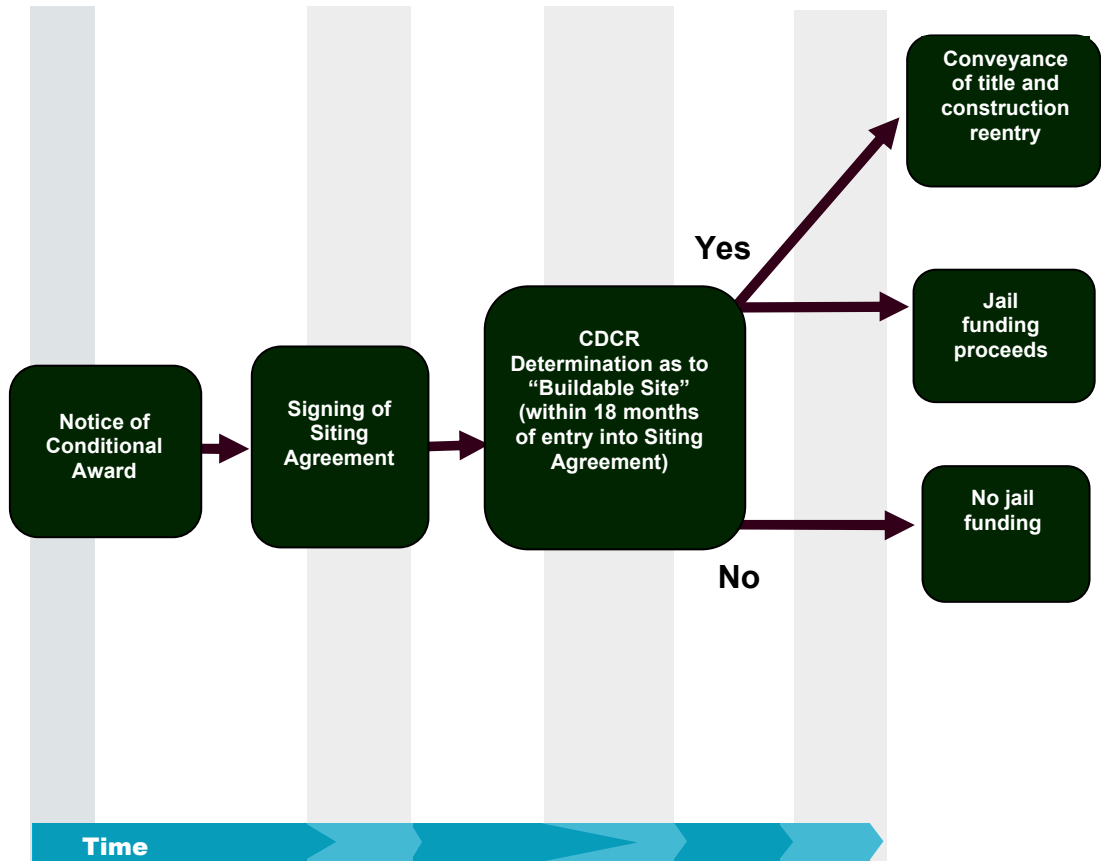
Name:

Title:

Date:

Exhibit A

CSA - CDCR Reentry Siting Agreement Process



SPWB – CDCR Jail Lease Revenue Bond Program Agreements

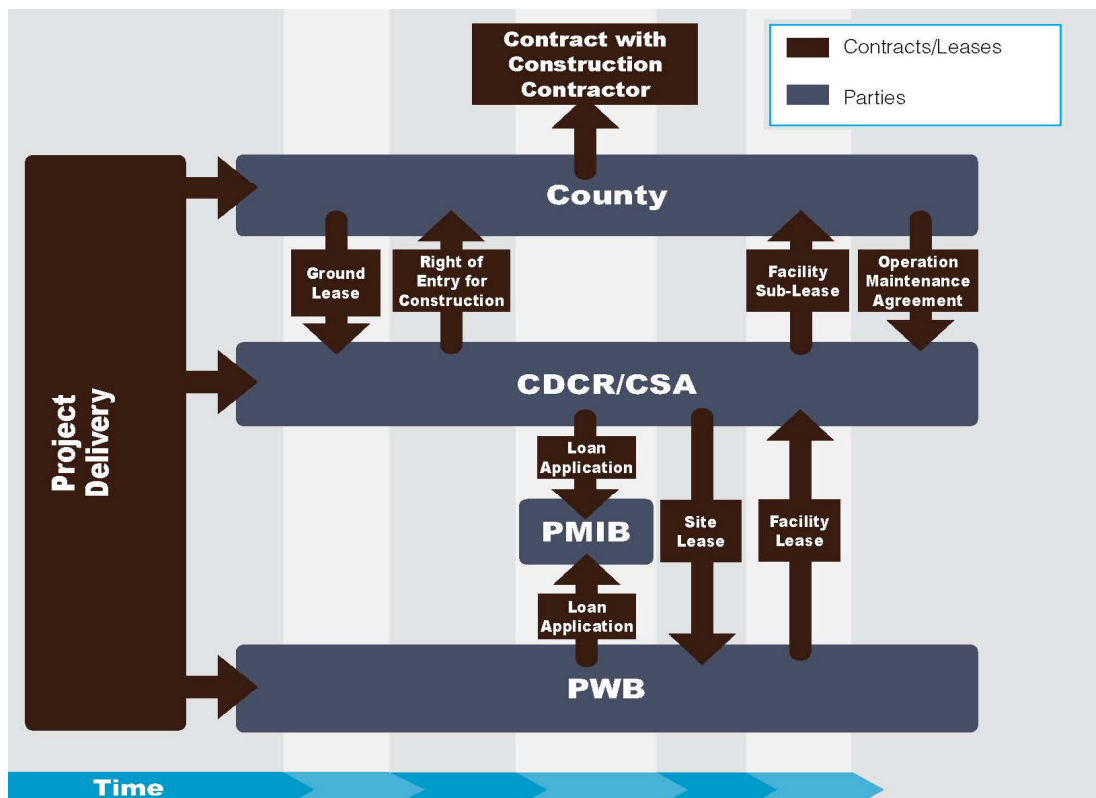


Exhibit B

[Description of the needs of the County with respect to the parolee population, as well as the services and programs that will be available and/or necessary for a successful Reentry Facility.]

Exhibit C

Site Comparison Chart

Issues	Site 1	Site 2	Site 3
Street Address			
Assessor Parcel Number			
Nature Gas Service			
Electric Service			
Water (municipal or well)			
Sewer Service			
Telephone Service			
Street Access			
Offsite Improvements			
Title Issues (exceptions)			
Ownership Issues			
Environmental Concerns			
Topography			
Part Take (does property need to be subdivided?)			
Neighborhood information			
Highest & Best Use/Current Zoning			
Implied Dedication/Any evidence of trespass?			
Improvements (indicate type and condition)			
Occupants/Existing leases			
Owner's Debt			
Owner's Willingness to Sell			
Nuisance Factors/hazardous materials present			
Neighboring Uses			
Assessment Bonds			
List Price/Appraised Value			
Probable Price Range			
Other:			
Other:			

Exhibit D

[Purchase Agreement]

Exhibit E

**REENTRY FACILITY SITING AGREEMENT:
SECONDARY DUE DILIGENCE MATERIALS CHECKLIST**

	<u>Date Received</u> <u>by CDCR</u>
A. Title and Escrow	
1. Preliminary Report and Copy of Exceptions	_____
a. Existing Surveys	_____
b. Copies of Exceptions	_____
c. Copy of Subdivision Map	_____
d. Current Assessment Amounts	_____
2. Preliminary Report and Exceptions	_____
a. Liens	_____
b. Restrictions	_____
c. Taxes and Assessments	_____
d. Easements	_____
e. Rights of Way	_____
f. Covenants, Conditions and Restrictions (“CCRs”) and Reciprocal Easement Agreements (“REAs”) of Record	
(1) Estoppel Issues with Tenants	_____
(2) Articles, Bylaws and Budgets of Any Association	_____
g. Property Description	
(1) Are Easements Included?	_____
(2) Are REAs Included?	_____

- 3. Existing Survey _____
 - a. Encroachments _____
 - b. Easements _____
 - c. Property Description _____
- 4. Existing Loan _____
- B. Environmental
 - 1. Identify Environmental Engineer or Consultant _____
 - 2. Results of Existing Phase I investigation _____
 - 3. Results of Existing Phase II Investigation _____
 - 4. Identify Existing Environmental Oversight _____
 - a. Remediation Plan _____
 - b. Seller's Clean-Up Obligations _____
 - c. Clearance from Agencies _____
 - d. Underground Tanks _____
 - e. Third-Party Commitment to Remediate _____
- C. Lease and Contract Review
 - 1. Documents: _____
 - a. Rent Roll _____
 - b. All Leases and Lease Amendments _____
 - c. All Lease Guarantees and Subleases _____
 - d. Lease Concessions _____
 - e. Tenant and Guarantor Financial Statements _____
 - f. Gross Sales Reports _____
 - g. Current Rent Delinquency Report _____
 - h. Historical Rent Delinquency Report _____

- i. Any Executed Letters of Intent _____
 - j. Most Recent Leasing Status Report _____
 - k. Standard Form Lease _____
 - 1. All Service and Maintenance Contracts _____
 - m. All Management Contracts _____
 - n. All Warranties and Guarantees _____
- 2. Existing Contracts _____
- D. Financial Documents
 - a. Historical Financial Statements _____
 - b. Year-to-Date Unaudited Financial Statements _____
 - c. Historical Capital Expenditures _____
 - d. Real Estate Tax Bills (Including Assessments) _____
 - e. Aged Receivables Report _____
 - f. Insurance Policies Now in Effect _____
 - g. Claims Under Insurance Policies _____
- E. Physical Inspections:
 - 1. Gross and Net Acreage _____
 - 2. Physical Improvements Inspection Documents: _____
 - a. Reports: _____
 - (1) Engineering Reports _____
 - (2) Mechanical Reports, Including HVAC _____
 - (3) Roof Reports _____
 - (4) Asbestos Reports _____
 - (5) Seismographic Reports _____
 - (6) Exiting Plans and Specifications _____

- (7) Americans with Disabilities Act (“ADA”) Reports _____
- (8) Architect’s Review _____
- (9) Structural Engineer Reports _____
- (10) Contract’s Reports _____
- (11) Fire Code Reports _____
- b. Public Records Regarding Violations _____
- c. Noncompliance with Building Code and Zoning _____
- d. Personal Property Inventory _____
- 3. Nature of Land _____
 - a. Topography _____
 - b. Soils _____
 - c. Soils Report _____
 - d. Special Conditions/Cost _____
 - e. Drainage _____
 - (1) Any Special Requirements _____
 - (2) Cost of Such Requirements _____
- 4. Vegetation _____
- 5. Inspect Natural Water _____
 - a. Usefulness _____
 - b. Flood Hazard _____
 - c. Sensitivity _____
 - d. Water Table _____
- 6. Mineral Rights _____
- 7. Special Hazards _____
 - a. Erosion Potential _____

- b. Subsidence Potential _____
- c. Fault Zones Potential _____
- d. Noise/Vibration _____
- e. Toxics/Chemicals _____
- f. Existing Underground Tanks _____
- g. Unsightly Neighbors _____
- h. High Winds _____
- i. Incompatibly Zoned Neighbors _____
- 8. Accessibility _____
 - a. Frontage/Access Streets _____
 - b. Ability to Handle Traffic _____
 - c. Distance to Major Freeway _____
 - d. Fire Access _____
- 9. Utilities _____
 - a. Water _____
 - (1) Availability _____
 - (2) Sufficient Quantity/Pressure _____
 - (3) Hook-Up Charges (Fees) _____
 - (4) Separation of Fire and Domestic Supply _____
 - b. Sewer _____
 - (1) Adequate Supplies to the Site? _____
 - (2) Hook-Up Charges (Fees) _____
 - c. Gas/Electric _____
 - (1) Availability _____
 - (2) Cost to Make Available _____

(3) Fees (How Much, Who Pays)	_____
d. Telephone	_____
(1) Availability	_____
(2) Cost to Make Available	_____
(3) Fees (How Much, Who Pays)	_____
e. Cable TV/Satellite Dish	_____
f. Storm Drains/Flood Control	_____
(1) Cost	_____
10. Existing Approvals	_____
(1) All Licenses, Permits and Approvals	_____
(2) Certificates of Occupancy	_____
(3) Copies of Any Notices of Violations of Law	_____
(4) List of Litigation Pending Against Property	_____
(5) Conditional Use Permits	_____
(6) Pending Environmental Impact Reports (“EIRs”)	_____
F. Governmental Issues	_____
1. Current Political Situation	_____
a. Politics of the City	_____
b. Politics of the Site	_____
c. Neighborhood Politics	_____
2. Zoning/Density Issues	_____
3. Existing Growth Restrictions	_____
4. Low/Moderate Income Requirements	_____

- 5. Public Use Requirements
 - a. Fire Station
 - b. Open Space, Parks, Roadway, School, Etc.
 - c. Any Condemnation Likely?
 - d. Historical/Archaeological
 - e. Wildlife/Environment
 - f. Flood/Fire/Earthquake
- 6. City Fees
 - d. Utility
 - e. Parks
 - f. Roads/Traffic
 - g. Schools
 - h. Special Fees
 - i. Special Assessments
 - j. Tree Fee
 - k. Street Lighting
 - l. Underground Signaling
 - m. Housing Mitigation Fees
 - n. Flood Control
 - o. Engineering/Inspection
 - p. Special Taxes
 - q. Growth Management Fees
- 7. Issues with Off-Site Improvements
 - a. Storm Drainage
 - b. Road Improvement

- c. Flood Control _____
- d. Parks Improvements _____
- e. Special Facilities _____
- f. Traffic Signals _____
- g. Sanitary _____
- h. Underground Utilities _____
- i. Sidewalks _____
- G. Other _____
 - 1. Any Current or Threatened Litigation _____
 - 2. Any Current or Threatened Condemnation _____

929365.5